IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

S.B.CIVIL WRIT PETITION NO.5610/2002.

M/s.Shanker Trading Company.

VERSUS

Director, Agriculture Marketing Department, Jaipur & Anr.

06.09.2006.

HON'BLE MR.JUSTICE DALIP SINGH

Mr.Ajay Gupta, for the petitioner.
Mr.Inderjeet Singh, for the respondents.

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The petitioner in this writ petition has challenged the order (Annexure-8) dated 31.07.2002 passed by Krishi Upaj Mandi Samiti, Niwai (Tonk).

The facts in nutshell are that originally an assessment was made by the Krishi Upaj Mandi Samiti and a demand against the petitioner was raised. Against the aforesaid demand raised by the respondent-Samiti, the petitioner preferred an appeal before the Director. The Director after having heard the parties vide order dated 11.06.2002 allowed the appeal and remanded the matter to the respondent-Samiti for decision afresh.

It is after the remand by the Director that the impugned order dated 31.07.2002 (Annexure-8) has been passed by the respondent-Samiti for a demand of Rs.79,586/- against the petitioner.

The submission of the learned counsel for the petitioner is that the petitioner was not afforded any

opportunity by the respondent-Samiti before passing the impugned order dated 31.07.2002 and as such the impugned order is in violation of the principles of natural justice.

Notices were issued to the respondents and the respondents have filed their reply. In the reply the respondents have filed the documents marked Annexure-R/2 and Annexure-R/3 whereby vide Annexure-R/2 dated 08.07.2002 it has been contended that the petitioner was asked to appear and bring all the supporting documents in support of his case. It is then submitted that the order was passed and before that inquiry report was prepared which is submitted as Annexure-R/3 dated 30.07.2002 which the petitioner, as per endorsement on the said report, failed to sign and acknowledge the same. It is submitted that vide Annexure-R/2 an opportunity of hearing was afforded to the petitioner and an opportunity to produce the supporting documents was also given.

Learned counsel for the respondents also contended that the petitioner has an alternative statutory remedy of appeal provided under Section 34(2)(b) of the Rajasthan Agriculture Produce Market Act, 1961 and the petitioner had earlier availed the said remedy before the Director but instead of filing appeal, the petitioner has directly come before this court in the writ petition.

Having heard learned counsel for the parties and having considered rival submissions made at the Bar,

I am of the view that the petitioner has an alternative efficacious remedy by way of the provisions of Section 34 (2) of the Rajasthan Agriculture Produce Marked Act, 1961 of preferring an appeal before the Director.

In view of the above, there being an alternative statutory remedy of appeal available to the petitioner, this writ petition is dismissed. The stay application also stands dismissed. The petitioner would be at liberty to prefer an appeal before the Director and with a view to protect the interest of the petitioner, as has been done by this court while passing the order issuing notices to the respondents, by order dated 27.08.2002, the operation of the impugned order dated 31.07.2002 is stayed for a period of thirty days from today. The learned Director would be free to decide the appeal and stay application which may be filed in accordance with law.

Consequently, the writ petition as well as the stay application are disposed of, as above.

(DALIP SINGH),J.

Solanki DS, Jr.P.A.